

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LARRY GENE HEGGEM,

Plaintiff,

v.

MONROE CORRECTIONAL
COMPLEX, DR. KENNETH LAUREN,
DR. JOSEPH LOPIN, and L. MANIGO-
HEDT,

Defendants.

No. C11-5985 RBL/KLS

ORDER DENYING DEFENDANTS'
MOTION TO STRIKE

Before the Court is Defendants' motion to strike pursuant to Fed. R. Civ. P. 12(f). ECF No. 86. The motion is denied.

BACKGROUND

On March 16, 2012, Defendants filed their Motion to Dismiss pursuant to Fed. R. Civ. P. 12(c) and Motion to Stay Discovery. ECF No. 31. The Court converted the motion into a motion for summary judgment. ECF No. 31; ECF No. 53. Mr. Heggem filed his response to Defendants' motion for summary judgment on June 13, 2012. ECF No. 65. Defendants filed their Reply on June 27, 2012. ECF No. 70. On August 1, 2012, the Court struck Defendant's Motion for Summary Judgment (ECF No. 31) from its calendar pending conclusion of discovery. ECF No. 88.

After Defendants filed their Reply (ECF No. 70), Mr. Heggem filed several pleadings and documents. On July 18, 2012, Mr. Heggem filed "Newly Discovered Evidence Of The Use Of

1 Milk Thistle,” “Newly Discovery Evidence [of] CBC Lab Report That Indicates Liver
2 Discover/And Prison M.D. Opinion,” and “Declaration Of Tooth Removed On 7-12-12 And
3 Consultation Information As Stated By Dentist/Evidence Of Dental Kite.” ECF Nos. 77, 78, 79.
4 On July 25, 2012, Mr. Heggem filed “Newly Obtained Evidence In Support [of] The Use Of
5 Milk Thistle.” ECF No. 84. Defendants argue that these documents should be stricken pursuant
6 to Fed. R. Civ. P. 12(f) and ER 802.
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8 DISCUSSION

9 Fed. R. Civ. P. 12(f) provides that “redundant, immaterial, impertinent, or scandalous
10 matter” may be stricken from any pleading. A motion to strike is limited to pleadings. *Sidney-*
11 *Vinstein v. A.H. Robins Co.*, 697 F.2d 880, 885 (9th Cir.1983). Motions to strike are disfavored
12 and infrequently granted. *Pease & Curren Refining, Inc. v. Spectrolab, Inc.*, 744 F.Supp. 945,
13 947 (C.D.Cal.1990), *abrogated on other grounds by Stanton Road Assocs. v. Lohrey Enters.*, 984
14 F.2d 1015 (9th Cir.1993). Such motions should be granted only where it can be shown that none
15 of the evidence in support of the allegation is admissible. *Spectrolab*, 744 F.Supp. at 947. The
16 evidence rules provide that hearsay evidence is not admissible except as provided by the
17 evidence rules. ER 802.
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19 As noted above, Defendants’ motion for summary judgment (ECF No. 31) is no longer
20 pending. Defendants are correct that under the rules governing motion practice before this
21 Court, the parties are allowed to submit a motion, a brief in opposition, and a reply brief. Local
22 Rule 7(b). All supporting materials such as affidavits, declarations, or other evidence are to be
23 presented and filed at the same time as the accompanying motion, brief, and/or reply brief are
24 filed. No other documents or pleadings are to be presented unless otherwise ordered or directed
25 by the Court. Thus, Mr. Heggem should govern his future filings accordingly.
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1 However, because there is no motion for summary judgment presently pending, the
2 documents filed by the Plaintiff will not be considered by the Court for any purpose. The Court
3 will reserve questions of admissibility of any documents submitted by the parties for any future
4 pending dispositive motion, upon motion by a party.
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6 Accordingly, it is **ORDERED**:

- 7 1) Defendants' Motion to Strike (ECF No. 86) is **DENIED**.
8 2) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.
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10 **DATED** this 17th day of September, 2012.

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13 Karen L. Strombom
14 United States Magistrate Judge
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